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10/582,572	06/12/2006	Thomas Scherer	WUE-56	1701

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EXAMINER

BONZELL, PHILIP J

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3644

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 11-14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over James (GB Patent #2070139A) in view of Schwarzler (US Patent #3991782).

a. For Claims 11-14 and 17, figure 2 of James '139 discloses a main flow chamber (5) that has a first air inlet (3) with a constant flow cross-section between outer points (7 and 8) and a second air inlet (15) that is connected to and radial the main flow channel (5) by a side channel (15). Figure 2 of James '139 also discloses a movable device or flap (14) for setting a flow cross-section of the second inlet (15) that rotates about an axis (13a). James '139 is silent about the use of a device to create a low pressure area in the area of the second air inlet, however, figure 2 of Schwarzler '782 and column 2, lines 63-67 teaches, "The flap 3 is hinged to the wall structure of duct 2 by means of a hinge 9. For low pressure in the duct, i.e. during takeoff and during low speed cruising, flap 3 swings inwardly thus opening the secondary opening 22 (FIG. 3)." Thus the duct wall (2) creates a low pressure in the area of the second inlet (22). Therefore it

Art Unit: 3644

would have been obvious to someone of ordinary skill in the art at the time of the invention to modify James '139 with the low pressure system of Schwarzler '782 in order to provide more air for the engine at low speeds.

b. For Claim 16, James '139 is silent about the use of a mechanical device to hold the movable element, however, figures 2 and 3 of Schwarzler '782 teaches arms (4 and 5) along with a hydraulic or pneumatic shock (1) that hold the movable element (3) in a first position where the flap (3) is partially open (figure 3) or a second position where the flap (3) is shut (figure 2). Therefore it would have been obvious to someone of ordinary skill in the art at the time of the invention to modify James '139 with the mechanical device of Schwarzler '782 in order to accurately control the movement of the flap that control the second intake in order to provide enough air to the engine.

2. Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over James (GB Patent #2070139A) in view of Schwarzler (US Patent #3991782) as applied to claim 11 above, and further in view of Bullock (US Patent #3302657). Both James '139 and Schwarzler '782 are silent about the use of an electro-mechanical control device to operate the movable element between a first and second position, however, the only figure of Bullock '657 teaches an electro-mechanical device (16) that operates a movable element (4) between a first and second position. Therefore it would have been obvious to someone of ordinary skill in the art at the time of the invention to modify James '139 and Schwarzler '782 with the motor of Bullock '657 in order to accurately

Art Unit: 3644

control the movable element so that a precise amount of air can be allowed to enter the engine.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHILIP J. BONZELL whose telephone number is (571)270-3663. The examiner can normally be reached on M-Th 8-5;.

Art Unit: 3644

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on (571)272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. J. B./
Examiner, Art Unit 3644

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3644

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